

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

CHARLES FABIUS, *et al.*,

Plaintiffs,

vs.

MEDINEXO USA, LLC & JORGE TORO,

Defendants.

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Case No. 4:19-cv-02526-MTS

MEMORANDUM AND ORDER

Defendants Medinexo USA, LLC and Jorge Toro moved to dismiss, Doc. [102], all three Counts contained in Plaintiffs' Second Amended Complaint, Doc. [101]. Plaintiffs opposed the Motion to Dismiss only as to Count One and Count Two; Plaintiffs made no mention of the Motion to Dismiss as to Count Three. *See generally* Doc. [104]; *see also, e.g., id.* at 15 ("For these reasons, Defendants Medinexo and Toro's motion to dismiss Counts I and II of the Second Amended Complaint should be denied."). Since it appeared to the Court that this omission may have been an oversight, the Court provided Plaintiffs an opportunity to show cause why the Court should not grant the Motion to Dismiss as to Count Three and admonished Plaintiffs that a failure to respond would be construed as an abandonment of their claim in Count Three. Doc. [110] at 4–5. Plaintiffs did not respond.

Accordingly,

IT IS HEREBY ORDERED that Defendants' Motion to Dismiss, Doc. [102], is **GRANTED** as to Count Three of the Second Amended Complaint. Count Three is dismissed. Count One and Count Two remain.

Dated this 31st day of January, 2022.



MATTHEW T. SCHELP
UNITED STATES DISTRICT JUDGE